

Hon. Richard A. Jones

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

PHILIP SMITH,

Plaintiff,

v.

COUPANG INC. and DOES 1-10, inclusive,

Defendants.

Case No. 23-1887

**DECLARATION OF MICHAEL SUBIT  
IN SUPPORT OF PLAINTIFF'S  
MOTION FOR LEAVE TO FILE  
CORRECTED AMENDED COMPLAINT**

I, Michael C. Subit, hereby state as follows:

1. I am a Partner with the law firm Frank Freed Subit & Thomas LLP, and counsel for Plaintiff Philip Smith in the above-captioned action. I submit this declaration in support of Plaintiff's Reply In Support of Plaintiff's Motion for Leave to File the Corrected Amended Complaint. Dkt. 47.

2. As part of Plaintiff's legal team, I reviewed and approved Plaintiff's Amended Complaint, Dkt. 26, prior to filing and did not recognize the naming errors raised by Defendant in its Opposition to Plaintiff's Motion for Leave to File Corrected Amended Complaint

SUBIT DECL. ISO MOT. FOR LEAVE  
TO FILE CORRECTED AMENDED  
COMPLAINT  
Case No. 23-1887  
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**FRANK FREED SUBIT & THOMAS LLP**  
705 Second Avenue, Suite 1200  
Seattle, WA 98104  
Telephone: (206) 682-6177

1 (“Opposition to Mot. For Leave”) that were rectified in the Corrected Amended Complaint. Dkt.  
2 35-1.

3 3. Counsel for the parties met and conferred via video conference on March 8, 2024  
4 regarding Defendant’s Motion to Dismiss Plaintiff’s Amended Complaint. I, along with  
5 Cassandra Lenning and Kendall Onyendu, attended the conference on behalf of Plaintiff. Ryan  
6 Swindall, Randa Osman, and Alicia Cobb attended the conference on behalf of Defendant. The  
7 conference lasted approximately ten minutes.

8 4. Defense counsel raised a number of issues during the March 8 meet and confer.  
9 With regard to new allegations in Plaintiff’s Amended Complaint, Ms. Cobb stated that  
10 Defendant intended to move to dismiss the new contract-based claim and that Plaintiff’s  
11 Washington state claim would not apply given its reliance on the Sarbanes-Oxley Act ("SOX")  
12 as a public policy. Ms. Cobb further stated Defendant’s belief that the new allegations relating to  
13 Coupang, Inc.’s connection to California and Washington would not change its analysis relating  
14 to the extraterritorial conduct of the Coupang, Inc. as the allegations primarily related to  
15 “Coupang Global,” a different entity which was not Plaintiff’s employer. I do not recall and did  
16 not make note of any mention of the Amended Complaint having been altered such that it  
17 identified the wrong entity as Plaintiff’s employer. No such issue was discussed with Plaintiff’s  
18 team after the meet and confer as I am confident it would have been if any member of Plaintiff’s  
19 team understood that to have been communicated.

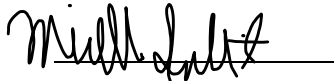
20 5. Once alerted to the fact that the name of Plaintiff’s employer, “Coupang LLC” had  
21 been inadvertently changed to “Coupang Global LLC” in several places, I worked with Plaintiff’s  
22 legal team to determine what would be the best means of correcting the errors; first, discussing  
23 the possibility of filing a Praeceipe and then discussing securing Defendant’s consent  
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1 for leave to amend and then that asking the court for leave to filing a corrected amended  
2 complaint would be the best course.

3 6. Specifically, following the recovery of a member of Plaintiff's legal team from  
4 COVID, Plaintiff's team initialed discussion with Defendant's counsel in order to meet and  
5 confer about the issues. Emails were exchanged on March 22, March 25, March 26, and April 1,  
6 and April 2, 2024 in which Plaintiff's identified the six identical corrections it sought to make to  
7 change the name "Coupang Global LLC" to "Coupang LLC" and suggested the proper process  
8 for correcting them. Counsel for Defendant refused to consent to the corrections; one main  
9 stated reason was that Defendant did not want to incur an additional round of pleadings and  
10 motion to dismiss briefing.

11 I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the forgoing is true  
12 and correct.

13 Executed this 19th day of April, 2024, in Seattle, Washington.

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16 Michael C. Subit  
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